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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|-------------------------|
| 09/669,604 | 09/26/2000 | Jacob K. Gotwals | 042390.P9241 | 5203 |
| 7590 | 12/18/2003 | | | EXAMINER KIM, PAUL L |
| John Travis Blakely Sokoloff Taylor & Zafman LLP 12400 Wilshire Boulevard 7th Floor Los Angeles, CA 90025 | | | ART UNIT 2857 | PAPER NUMBER |
| | | | DATE MAILED: 12/18/2003 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/669,604 | GOTWALS ET AL. |
| | Examiner Paul L Kim | Art Unit 2857 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 September 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Yemini et al.

With regard to claims 1-3, 6, 8-10, and 13, Lewis teaches a method and system for evaluating a system comprising: identifying significant behavioral properties based on measured data in a system (fig. 4, step 100), determining an insight associated with the significant behavior properties (fig. 4, step 102), and determining a advice associated with the insight (fig. 4, step 106).

Lewis teaches evaluating faults in a communications network, but does not teach a computer system being testing. Yemini et al teaches a method for detecting problems in a computer system that identifies behavioral properties (col. 8, lines 23+ & col. 12, lines 54-57) and determines an insight (col. 9, lines 3-7). Since Lewis and Yemini et al are both within the art of identifying problems in complex system and since Lewis discloses that systems such as database systems and spread sheet systems (col. 10, lines 61-64) can also be evaluated, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Lewis, so that the system has the ability to

test a computer system, as taught by Yemini et al, so as to derive the benefit of a versatile system that can test a wide variety of systems.

With regard to claims 4, 5, 11, and 12, Lewis teaches generating an explanation of the insight and advice (fig. 7).

With regard to claims 7 and 14, Lewis teaches providing the information to a user (fig. 1, part 46).

With regard to claims 15 and 16, Lewis teaches an evaluation system comprising: an interface to receive measured values of computer system performance parameters (fig. 4, step 100), an interpreter coupled to the measurement interface to receive measured data from the interface and to provide behavioral property data (fig. 4, step 102), a behavioral interpreter coupled to the measurement interpreter to receive the behavioral property and provide insights and explanations (fig. 4, step 106), and a user interface coupled to the interpreter (fig. 1, part 46).

Lewis teaches evaluating faults in a communications network, but does not teach measuring behavior parameters of a computer system. Yemini et al teaches a method for detecting problems in a computer system that measures behavioral properties (col. 8, lines 23+ & col. 12, lines 54-57) and determines an insight (col. 9, lines 3-7). Since Lewis and Yemini et al are both within the art of identifying problems in complex system and since Lewis discloses that systems such as database systems and spread sheet systems (col. 10, lines 61-64) can also be evaluated, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Lewis, so that the system has the ability to measure properties of a computer system, as taught by Yemini

et al, so as to derive the benefit of a versatile system that can test a wide variety of systems.

With regard to claim 17, Lewis teaches the interpreter including a behavior knowledge interpreter (fig. 1, part 20).

With regard to claim 18, Lewis teaches the interpreter including a compiler (fig. 1, part 22).

With regard to claim 19, Lewis teaches the interpreter including an insight generator (fig. 1, part 34).

With regard to claim 20, Lewis teaches the insight generator including a report generator (fig 1, part 32).

Response to Arguments

3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bliley et al teaches a system for analyzing faults and providing solutions for a machine.

Art Unit: 2857

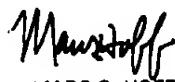
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 703-305-7468. The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK

December 14, 2003


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800